

## TESTING A NEW ACT

The Validity of the Milk Ordinance in Question

### ON A CASE FOR A VIOLATION

The Several Provisions of the Ordinance Inquired Into by the Defense—Points of the Prosecution.

The case of the city of Grand Rapids vs. Irving Woodworth, milk dealer, which was on trial in the superior court yesterday morning and afternoon, presents features of decided interest to the milk dealers generally and has an important bearing upon the legality of the city ordinance. An analysis of the various provisions of the ordinance shows that the city council requires the board of health to demand of the dealer in the city its important conditions with which it is claimed, he could not comply. One is that the dealer obtain milk only from cows that have been pastured five months in the year. This pre-requisite brings up the question as to whether the board has any authority to make a farmer pasture his cows five months out of twelve. If the milk is pure and the owner of the cows doesn't comply with this pre-requisite, could the common council deprive the people of the city of milk?

Some of the duties. The ordinance says that it shall be the duty of the board of health to procure deputizing privileges from the sheriff. Could the board of health accomplish this except by the pleasure of the sheriff?

The ordinance provides that the farmer shall underdrain his stables and that the floors shall be of sound plank or hydraulic cement. Also that he shall build a receptacle and conduct the liquid manures through underground pipes and that the solid manures shall be removed from the barn and yard every day.

That cows shall not be fed on brewery slops or ensilage, which are fermented foods, nor on garbage, which includes apple parings, which are deemed a wholesome food, nor on oil cake, which in moderation is a healthful food.

#### Testimony of the Inspector.

The testimony of the milk inspector showed that of the 170 stables inspected by him, only four were connected with sewers, a few others being provided with tight receptacles, and a few with wooden drain pipes. The rest, over 140, are furnished with shavings, sand, straw, or sawdust, for absorbing the liquid manures.

The defense asks how the inspector is to know that the manures are daily removed from the barns and stables. To require cesspools in connection with the stables would in many cases be putting a premium on disease by contaminating wells. Should the milk business, which is the distribution of an essentially wholesome product, be restricted by license as is the sale of intoxicants. Grocers selling milk are not obliged to obtain a license to sell milk, nor others establishing agencies, though it may be in some places, where the milk may become unwholesome. It places costly and unreasonable restrictions on the peripatetic dealer. Again, the council for any other legislative body cannot, by declaring a thing a nuisance, make it such.

#### Claims of the Prosecution.

The prosecution claims that the city law is analogous to the state law dealing with the same question. Its fundamental propositions they take as conceded, i. e., that the council had a right to pass such a law, and that it was duly passed, and that the ordinance was violated. The main question was, is the ordinance reasonable? Can the city legislate both inside and outside its boundaries? The city has a right to inspect outside in regard to commodities sold inside the boundaries. But are the requirements reasonable? The court said not, declaring that they were "foolish and nonsensical," that the board of health have no right to dictate to the farming community as to how they shall construct their stables, sheds and cow houses. The field is covered by a general state law, and the common council has no right to put it in the power of the board of health or milk inspectors to court adjourned without final action.

#### RECEIVER TO BE APPOINTED.

The Grand Rapids, Lansing & Detroit to Be Run by the Court.

In accordance with the petition filed by William McKee and Michael Lally, for the appointment of a receiver for the Grand Rapids, Lansing & Detroit railroad company, Judge Adst, who has had the matter under advisement for a week, rendered a verdict yesterday in the circuit court. The appointment was not made, the selection being held open for further consideration or until the parties to the suit agree upon a man. The petition was filed several months ago, and is the outgrowth of a suit brought by McKee & Lally in the Wayne county circuit court against the company, and in which judgment was rendered in favor of the plaintiffs for \$301,000. The case was appealed to the supreme court where it is still pending. The company paid nearly \$10,000 to have the briefs printed. McKee & Lally attached land in this city belonging to the company, which partly satisfied the judgment. They attempted to collect the balance, but could find no way in which to do so. The petition stated that the plaintiffs feared the road was about to be sold. The Grand Rapids, Lansing & Detroit is that portion of the Detroit, Lansing & Northern running from this city to Grand Ledge. It is owned by the same stockholders as the Detroit, Lansing & Northern, but was built by a new corporation organized for the purpose, and then leased to the Detroit, Lansing & Northern. The separate corporation is alone responsible for its debts and obligations.

#### TROUBLE OVER A NOTE.

The Board of Trade Restaurant Transfers in Court.

Edgar C. Bearce began suit in the circuit court yesterday against Simon P. DeVries and Florence J. DeVries to compel them to deliver a note for \$150, which the complainant says has been paid. An agreement was entered into between the parties whereby the Board of Trade restaurant was sold to Edward W. Wall. The price was to be paid for in the installment plan. A note for \$150 was given when the transfer was made. Afterwards the amount was paid, but the note was not returned. The defendant applied for it, and was told that it was in the hands of W. J. Stuart. Stuart said he had advanced \$5 on the paper and declined to give

it up. Later DeVries paid the \$75, as the complainant believed, and now fears that he may be compelled to pay the note again. He asks that the court order the note returned and restrain the defendant from beginning proceedings to collect it again.

**JOSHUA JOHNSON'S JAIL.**  
He is Under Examination for Slashing Albert Hubbard.

Joshua Johnson, bootblack, amateur prize fighter and all round bad man, was up for examination in police court yesterday for committing deadly assault by stabbing Albert Hubbard in the neck with a pocket knife. Hubbard, the complaining witness, was the first sworn. He said a colored gentleman named Mista Coleman, and de gentleman arrested, and himself, with three others, were clustered around de dinner table at Mista Baker's boardin' house, No. 31 Calder street, last Saturday. De gentleman arrested, Mista Johnson, said de gentleman, Mista Coleman, and himself, were mildly discussing de possibilities of one's gaining his liberty on his own recognizance after being arrested. De gentleman, Mista Johnson, said he could get out in fifteen minutes. De gentleman, Mista Coleman, said he could bail himself out. He told the gentleman, Mista Johnson, that he couldn't do it. Den dey was a few more words, and den de gentleman, Mista Johnson, went out in de woodshed and get an ax. A gentleman present took it away from him. Den he went out and got an odder ax. Den a gentleman took that away. Den he said, "Mista Hubbard, are you a man?" Mista Hubbard said he was. Mista Johnson said square yourself. Here the story of the fight was given, but Mr. Hubbard didn't know anything about being stabbed. All direct questions were evaded. The landlady said she "told de gentlemen they ought to be ashamed of themselves," and then put her hands over her face. The hired girl ran out doors. The man who took the ax away didn't see the blow struck, although he was looking at the contestants all the time. The last witness sworn, however, said he saw Johnson draw his knife and strike the blow. The officer making the arrest said Johnson told him he stabbed Hubbard in the neck. The case was adjourned till next Wednesday, when the defense will put in its side of the case.

**MR. COMPTON WAS MAD.**

He Wanted a Warrant and Had Trouble Getting It.

Yesterday afternoon William R. Compton, of the Compton Furniture company, came into police court with an order for a warrant. It was an unjust case. He wanted a man named J. D. Cook arrested for embezzling \$50. He first approached Clerk Ed Peiton. Ed said it wasn't his business to make out complaints and referred Mr. Compton to Assistant Prosecuting Attorney Malcomb. The latter replied in words which Mr. Compton understood as a blank refusal. He was indignant and made for the telephone. Calling up Prosecuting Attorney McKnight, he told him that his deputy, Mr. Malcomb, declined to make out the warrant. Mr. Malcomb overheard the message, and told Mr. Compton in rather forcible terms that he was mistaken. He said his rejoinder was that he was basely engaged in conversation with Judge Hagerthy, and would make out the warrant when he was at liberty. Mr. Compton left, saying Mr. Malcomb would hear from him again. The warrant has since been issued, and the officers are in search of Mr. Cook.

#### ARE BEYOND DISPUTE.

Supervisor Lindemulder Qualified to Hold Office Beyond Any Doubt.

J. F. Preston of the law firm of Dunham & Preston, said yesterday that he had been approached professionally by Anne Lindemulder, the newly elected supervisor from the Tenth ward, in regard to his right to hold office. Lindemulder's friends, he said, had urged him to do something to refute the statements made in the papers to the effect that he was disqualified. In regard to his qualification, Mr. Preston said he had made a thorough examination of the question, and was confident that Lindemulder's qualifications were beyond dispute, both under the state constitution and the United States constitution.

#### OVER THE OWASHTANONG FAILURE.

A Chattel Mortgage Is Produced to Establish a Claim.

Demand was made on Under Sheriff Walsh by Judge Hatch yesterday for the possession of the Owashanong Road, to satisfy a chattel mortgage covering the same held by C. W. Chauncey, Don J. Leathers and Dr. Barth for \$1000. The mortgage was given last December to secure a loan of \$1000 for the purpose of taking up a note held by one of the banks. It was not put on record until a few days before the collapse.

#### SUED FOR FALSE IMPRISONMENT.

Several weeks ago Teller Post of the Old National bank swore out a warrant for an expressman named Juchs, alleging that he presented for payment a check for 25 cents and was given \$25, which he kept. Detective Kennedy served the warrant. Juchs was tried in police court by a jury and discharged. Yesterday he brought suit before Justice De Wolf against Kennedy for \$100 damages. City Attorney Taylor appeared for the defendant. The case was adjourned.

#### Stole Twenty Looking-Glasses.

John and Nicholas Timmerman, Cornelius Lufbore and Willie Touis were arraigned in police court, yesterday, charged with grand larceny. R. D. Swartout is the complainant. The boys stole twenty German plate glass mirrors valued at \$50. All pleaded not guilty. John Timmerman was referred to the county agent and the other three will be examined today.

#### Broke the Window Panes.

Joseph Vander Berg and Peter Boshaven were arrested on complaint of property. It is alleged that they poked their fists through several panes of window glass. Vander Berg pleaded

guilty. In his case sentence was deferred until April 22. Boshaven denied his guilt, and will be tried April 22.

**Bellamy Committed to Jail.**  
W. H. Bellamy, whom Patrolman McCarthy pulled from the railroad tracks at Island street from in front of an approaching locomotive, was arraigned in police court, yesterday. He pleaded guilty to being drunk and was committed to jail for thirty days.

#### Minor Notes of the Courts.

Grace Herbold was arrested on the street last night by Detectives Smith and Darr. She had on a cloak which belonged to Millie Newcomb, and which was stolen from the latter by Fay, who is now serving a ninety days' sentence in jail. Grace Herbold claims to have bought the cloak from Fay.

In the case of the First National bank of Dubuque, Ia., against R. G. Peters et al., in the United States court, Judge Severens made an order yesterday to the effect that the receiver convey to the bank certain real estate located in this city.

Nelson Morris was arrested by Detectives Smith and Darr last night on complaint of his wife. The charge preferred is disorderly; the offense, non-support.

Arie Terpstra and Clarence Simmon were arraigned in police court yesterday for being disorderly. They pleaded not guilty and will have a trial April 26. John Mangold, the West Bridge street saloonist, arrested on complaint of his wife for assault and battery, was in police court yesterday.

Josephine Weathers was arrested on a warrant yesterday for disorderly conduct. She was released to appear for trial this morning.

John Taylor, an inmate of the Soldiers' home, was sent to jail for fifteen days by Justice Hydorn yesterday for being drunk.

John H. Raymond and Frank T. Brown of Chicago, were admitted to practice in the United States court yesterday.

#### LAWYERS AND LAWYERS.

##### Circuit Court—Part I.

JUDGE ADST.

Mary L. Campbell vs. Lizzie A. Jeffs and Lizzie Jeffs; replevin; on trial.

William McKee and Michael Lally vs. Detroit, Lansing & Northern Railway company, et al; ejectment; order granting motion for appointment of receiver G. K. L. & D. Railroad company.

Edward S. Beals vs. Lambert S. Munshaw, assumpsit; judgment for plaintiff for \$117.07 and costs.

##### Circuit Court—Part II.

JUDGE GROVE.

John McClint vs. A. P. Cook Co., ejectment.

Albert Baxter vs. William W. Munsell and William L. Conley; assumpsit, motion to set aside service of writ of attachment granted with costs.

Lilly Eicheldorfer vs. Abram Levy and Bessie Levy; replevin; motion for new trial denied with costs.

Arabella Homeworth vs. Thomas Conlon; assumpsit; judgment for defendant for costs and attorney fee of \$15.

##### Superior Court.

JUDGE DURLINGAME.

The City of Grand Rapids vs. Irving Woodworth; appeal.

In re the admission of Peter Talamo; admitted.

##### Probate Court.

CYRUS C. PERKINS.

Estate of Isaac Miller, deceased; petition for probate of will filed. Hearing May 16.

Estate of Frederick Lippman, deceased; petition for administrator filed. Hearing May 20.

Estate of Simon Sandky, alleged mentally incompetent; petition for appointment of guardian filed. Hearing May 10.

Estate of Arthur D. Preston, minor; letters of guardianship to Annie E. Preston.

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